Dues for EEI and EPRI (Adjustment #9)

Q. Please explain your adjustment regarding EEI and EPRI expenses.

A. I will discuss my adjustment regarding EEI dues first. In its Final Orders in cases 2003-00433 and 2003-00434, dated June 30, 2004 (pp. 51–52 and 44–45, respectively), the Commission ordered the removal of 45.35% of the Companies' dues to EEI because EEI applied that portion of the dues toward (1) legislative advocacy, (2) regulatory advocacy, and (3) public relations (referred to hereafter as "covered expenses"). The Commission precedent established in those cases, however, was not followed by the Companies in the current cases when determining the amounts to be excluded.

Q. If not using the Commission precedent, upon what basis did the Companies calculate covered expenses to be excluded in the current cases?

A. The Companies stated that EEI no longer prepares a breakout of activities by NARUC operating expense category. They, therefore, relied on invoice designations to exclude items from rates. Based on invoice designations, 13% of membership dues and 24% of industry issues (a combined 14% of the invoice amount) should be excluded from the cost of service as expenses related to influencing legislation.[59]

Q. Did the Companies provide support for using the invoice designations rather than the Commission precedent?

A. No. The Companies stated that they do not rely upon any NARUC reports or other studies for the exclusion from or inclusion in rates of a portion of any organizations dues. They

[59] OAG DR to KU 1-92 [Exhibit DHM-27] and OAG DR to LGE 1-92 [Exhibit DHM-28].

rely on information provided on the invoices received from EEI to determine the portion to be excluded from rates.[60]

Q. Do you consider the Companies' use of the invoice designations rather than the Commission precedent sufficient support for the excluded amounts?

A. No. I believe the Companies should continue to exclude amounts relative to the Commission's precedent for two reasons. First, based on the orders establishing the Commission precedent, of particular concern are the three areas previously excluded regarding legislative advocacy, regulatory advocacy, and public relations. EEI's invoices no longer break out costs based on these designations, making it impossible to know exactly how much is associated with these areas.

Q. Do not the EEI invoices identify amounts used for influencing legislation?

A. Not fully. EEI provides a percentage for "membership dues relating to influencing legislation, which is not deductible for federal income tax purposes,"[61] which does not specify whether all NARUC-identified areas are covered as they were under the Commission-established precedent.

Q. What is your second reason for continuing to exclude amounts relative to the Commission's precedent?

A. My second reason spawns from my first. The invoice designation of 14% of the invoice total is significantly less than the exclusion rate of 43.35% previously established. There is no support for concluding EEI's activity in regard to the covered expenses has decreased. In fact, the Companies themselves have stated that while they cannot confirm the activity

[60] OAG DR to KU 1-91 [Exhibit DHM-29] and OAG DR to LGE 1-91 [Exhibit DHM-30].
[61] OAG DR to KU 1-98 [Exhibit DHM-31] and OAG DR to LGE 1-98 [Exhibit DHM-32].

of EEI, they assume in their proposed forecast that EEI will continue their current activities.

Q. How much of the EEI dues do you recommend should be removed for the Companies' rate request?

A. The Companies failed to provide any evidence as to how much of the EEI dues are related to covered activities. Therefore, I could argue that all the EEI dues should be excluded entirely. However, I believe EEI provides resources, industry training, and testing that can be beneficial. Therefore, of the total EEI membership dues of $516,777 for KU and of $359,563 for LG&E-Electric, I recommend continuing to exclude the Commission's established-precedent rate of 43.35%. My adjustments are shown on Schedules 3.9. The effect of the adjustments on revenue requirements is shown in the summary table on page 4.

Q. Please explain your adjustment regarding EPRI expenses.

A. The Commission has previously taken a strong stand regarding LG&E's membership in EPRI. In Case No. 8924, the Commission stated the following in regard to the cost of membership:

> LG&E is hereby apprised that should it decide to become a member of EPRI it will bear the burden in future cases of justifying the cost of its membership. To do so, LG&E must present clear documentation of the benefits available through membership, its utilization of these benefits and its inability to obtain such benefits at a lower cost. The Commission is also concerned that a substantial portion of EPRI's research concerns nuclear power which is of no direct concern in Kentucky. In future cases, should it decide to join EPRI, LG&E must document whether it could receive all nonnuclear related benefits if it reduced its dues by the portion related to nuclear research. The Commission wishes to emphasize that these are the conditions LG&E must meet should it decide to become a member of

> EPRI. These conditions in no way represent a prior endorsement of such membership."[62]

Q. Have the Companies provided in this case the information the Commission requested?

A. No. The Companies responded that no formal cost-benefit analyses have been prepared regarding EPRI membership.[63] The Companies did list presumed benefits in the availability of EPRI research through membership, but without a cost-benefit analysis or some other definitive, comparative analytical support, it would be impossible to realize whether the benefits did outweigh costs, whether any other possible means of obtaining the presumed benefits would be possible, and therefore, whether the EPRI-listed benefits actually do benefit ratepayers.

Q. Did the Companies provide a reason for not producing the Commission-required information?

A. No. However, the Companies did note the Commission's long-standing interest in seeing research and development investments maintained.[64]

Q. Do you believe the Commission's interest in maintaining research and development avenues is reason to justify EPRI membership costs being charged to ratepayers?

A. Not by itself. As the Commission has made clear, the area of research and development should, of course, be an important part of a utility's effort to maintain low rates and high-quality service. However, those research and development programs must be able to produce cost-effective results. It is precisely for that reason that the Commission required

[62] Case No. 8924, Order dated May 16, 1984, page 43.
[63] OAG DR to KU 2-63 [Exhibit DHM-33] and OAG DR to LGE 2-63 [Exhibit DHM-34].
[64] OAG DR to KU 2-63 [Exhibit DHM-33] and OAG DR to LGE 2-63 [Exhibit DHM-34].

LG&E to "present clear documentation of the benefits available through membership, its utilization of these benefits and its inability to obtain such benefits at a lower cost."

Q. What do you recommend?

A. In the absence of the Commission's required support analysis, I recommend excluding EPRI costs from the revenue requirements. My adjustments are shown on Schedules 3.9. The effect of the adjustments on revenue requirements is shown in the summary table on page 4.

Q. Are there other organizations whose dues are included in the Companies rate request that engage in covered activities?

A. Yes. The following other organizations engage in covered activities and should be excluded.

- Steptoe & Johnson LLC, and agent of Midwest Ozone Group
- Utility Air Regulatory Group (UARG)
- Utility Water Act Group (UWAG)
- Midwest Ozone Group (MOG)
- Utility Solid Waste Activities Group (USWAG)[65]

My adjustments excluding the other organization dues that engage in covered activities are shown on Schedules 3.9. The effect of the adjustments on revenue requirements is shown in the summary table on page 4.

Outside Counsel Expense (Adjustment #10)

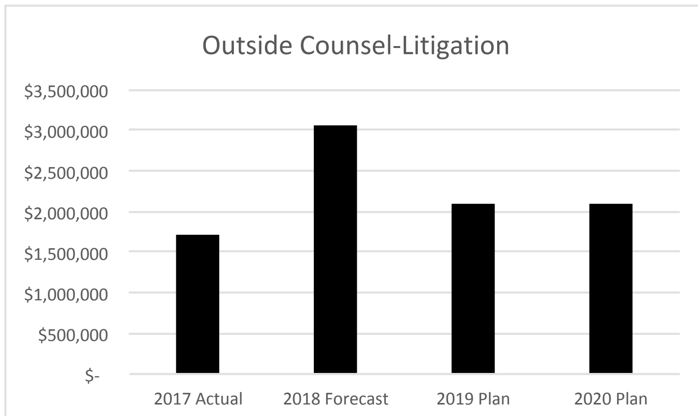
Q. Please explain your adjustment regarding outside counsel expense.

[65] OAG DR to KU 1-93 [Exhibit DHM-56] and OAG DR to LGE 1-93 [Exhibit DHM-57].

A. The Companies are forecasting significant increases in outside counsel associated with litigation in 2018 as shown in the following table.[66]

Table 7: Outside Counsel-Litigation 2017–2020

Annual O&M Expense Outside Counsel (Litigation)



Year	Amount
2017 Actual	$1,710,000
2018 Forecast	$3,073,000
2019 Plan	$2,086,000
2020 Plan	$2,107,000

The Companies stated that the litigation matter involves challenges based on alleged environmental impacts from operations at two of their coal-fired generating stations. The Companies are defendants in these actions and deny any liability regarding the plaintiffs' complaints. The matters are in the pretrial stage, with no trial date set in either case. The Companies have included $1.56 million in the forecast for outside services related to these matters. The Companies have notified their insurance carriers, but it is presently unknown how much, if any, coverage will be available to cover these additional outside services costs.[67] I recommend disallowing these costs as they are non-recurring and should not be built into on-going rates. In addition, it is possible that a portion, if not all the costs, would be covered by insurance. Since the Companies did not provide any additional detail

[66] Filing Requirement 807 KAR 5:001 Section 16(7)(c)I, page 214 of 235.
[67] OAG DR to KU 1-78 [Exhibit DHM-35], OAG DR to KU 2-52 [Exhibit DHM-36], OAG DR to LGE 1-78 [Exhibit DHM-37], and OAG DR to LGE 2-52 [Exhibit DHM-38].

associated with which coal-fired generating stations were involved in the litigation, I allocated my adjustment between KU and LG&E based on coal generation at each utility. My adjustments are shown on KU and LG&E-E Schedules 3.10. The effect of the adjustments on revenue requirements is shown in the summary table on page 4.

Credit-Card Rebate (Adjustment #11)

Q. Please explain your recommended adjustment regarding the recognition of the credit-card rebate.

A. The Companies use credit cards that provide rebates for purchases. The rebates were not reflected in the cost of service for the base or forecasted period. The rebates are recorded in account 921 Office Supplies and Expenses. The rebates for 2016 and 2017 are shown in the following table.[68]

Table 8: Credit Card Rebates for 2016 and 2017

	LG&E	KU
2016	$ 237,348	$ 206,000
2017	$ 242,837	$ 210,764

The Companies stated that the 2018 rebate has not been received.[69] My adjustment recognizes the credit card rebates using the most recent information available (2017). This amount is conservative since the rebate for 2017 is likely less than what will be received in 2018 due to the growth in the balances in Material and Supplies (M&S) and Stores in recent years. The balances in M&S and Stores for LG&E Gas and Electric were used to allocate the total LG&E credit card rebate between gas and electric. My adjustments are shown on Schedules 3.11. The effect of the adjustments on revenue requirements is shown in the summary table on page 4.

[68] OAG DR to KU 1-84 [Exhibit DHM-39] and OAG DR to LGE 1-84 [Exhibit DHM-40].
[69] OAG DR to KU 1-84 [Exhibit DHM-39] and OAG DR to LGE 1-84 [Exhibit DHM-40].